

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,
v.

Case No. 00-CR-225

FRANK HARRIS, JR.,

Defendant.

ORDER

On January 9, 2002, this court sentenced Frank Harris, Jr., to 151 months' imprisonment for violations of 18 U.S.C. § 922(g)(1) and 924(e)(1). Harris' total offense level was 35 and he had a criminal history score of II; under this matrix, his advisory guideline range of imprisonment was 188-235 months. However, the government filed a 5K1.1. motion based upon Harris' substantial assistance, thereby allowing the court to impose a sentence below the otherwise applicable and then mandatory sentencing guideline range. Harris' offense level was in large part driven by his relevant conduct, which assessed responsibility for over 150 kilograms of powder cocaine.

On November 1, 2007, the United States Sentencing Commission amended the advisory federal sentencing guidelines for criminal offense involving crack cocaine. On December 11, 2007, the Sentencing Commission further decided that, effective March 3, 2008, these amended guidelines would apply retroactively to all offenders who were sentenced under the previous versions of the sentencing

guidelines and who are presently incarcerated. The practical effect of these amendments is that pursuant to the provisions of 18 U.S.C. § 3582(c)(2), defendants previously convicted of offenses involving crack cocaine may be eligible for a reduction in their sentence.

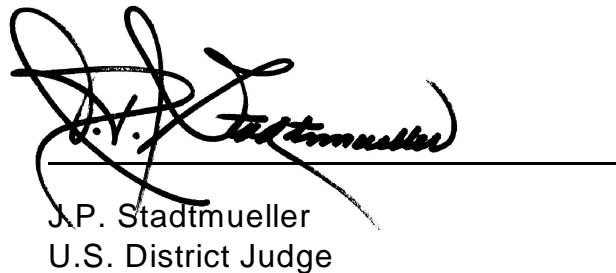
On July 7, 2008, Harris filed a pro se motion to reduce his sentence pursuant to § 3582(c)(2). Having considered Harris' motion, together with an analysis from the United States Probation Office and input from the United States Attorney's Office, the court concludes that his motion must be denied. As noted above, Harris was responsible for 150 kilograms of powder cocaine and, under the amended guidelines, Harris' offense level and sentencing guideline range remain the same. Therefore, the court finds no factual or legal basis to reduce the 151-month term of imprisonment imposed on January 9, 2002.

Accordingly,

IT IS ORDERED that Harris' motion for a reduction in sentence (Docket #279) be and the same is hereby **DENIED**.

Dated at Milwaukee, Wisconsin, this 11th day of August, 2008.

BY THE COURT:



J.P. Stadtmueller
U.S. District Judge